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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,726	11/12/2003	Peter Streuer	054821-0877	7254
26371	7590	03/13/2006	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			LEWIS, BEN	
			ART UNIT	PAPER NUMBER
			1745	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,726

Applicant(s)

STREUER, PETER

Examiner

Ben Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-7 and 12 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10-11 is/are rejected.
- 7) ☐ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Detailed Action

1. The Applicant's amendment filed on December 23rd, 2005 was received. Claims 1, 4, 11 and 12 were amended.
2. The text of those sections of Title 35, U.S.C. code not included in this action can be found in the prior Office Action (issued on September 23rd, 2005).

Claim Rejections - 35 USC § 102

3. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al (U.S. Patent No. 6,277,517 B1).

With respect to claims 1, 2 and 11, Thomas et al teach that the present invention provides a battery of the type having electrolyte therein, comprising a case defining at least one electrolyte containing cell, and a primary cover bonded to the case. The primary cover has a barrel extending into the electrolyte cell. A secondary cover bonded to the primary cover top, and an aperture concentric with the primary cover barrel. A baffling plug is disposed in the secondary cover aperture and extends into the barrel (Col 2 lines 60-67); (Col 3 lines 1-4). Thomas et al further teach that in FIGS. 3 and 6, baffling plug **90** is pressed into the fill hole **80** formed in the secondary cover **40** to inhibit the escape of the electrolyte from the cells. Each baffling plug **90** has a lid **94** with a bottom **96**, a pair of tubular splash guards **42, 43** extending from the lid bottom

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96, and a retaining member **88** for retaining the plug **90** in the fill hole **80**. The splash guards include a coaxially arranged outer tubular splash guard **42** and inner tubular splash guard **43**. When the plug **90** is pressed into the fill hole **80** the splash guards **42**, **43** extend into the barrels **22** of the primary cover **20**. In the preferred embodiment, the retaining member **88** is formed as an integral part of the outer splash guard **42** (Col 7 lines 6-18). The outer tubular splash guards **42a-f** have slots **44a-f** formed through their surfaces. Explosive gases evolved in the cells escape through these slots **44a-f**. The preferred embodiment has four slots for each outer tubular splash guard **42**. The slots are formed symmetrically and extend from the lower tip toward the retaining member **88** (Col 7 lines 44-50). Each inner tubular splash guard **43** is aligned coaxially with a respective outer tubular splash guard **42** and defines an inner chamber **45** at its center (Col 7 lines 51-57).

With respect to claim 3, Thomas et al teach that each inner tubular splash guard **43** is aligned coaxially with a respective outer tubular splash guard **42** and defines an inner chamber **45** at its center. The only opening into the inner chamber **45** is through its bottom opening, so any evolved gases and electrolyte driven into the inner chamber **45** are returned to the cells through the bottom opening of the inner chamber **45** (Col 7 lines 51-57).

With respect to claim 9, Thomas et al teach that the tubular splash guards **42**, **43** operate to knock electrolytes back into the cells when the battery is being vibrated (Col 7 lines 58-67).

With respect to claim 10, Thomas et al teach that each plug **90a-f** is retained in the respective fill hole **80a-f** by the respective retaining member **88a-f**. In the preferred embodiment, the retaining member **88** is a wedge-shaped flange surrounding the annular base **92** having an angled surface **106** extending from the base bottom **96** outwardly toward the base top **94**, and an orthogonal surface **88** extending radially away from the base **88**. Forcing the plug **90** into the fill hole **80** compresses the retaining member **88** against the retention member inner wall **84** to create an interference press fit which seals the fill hole **80** and retains the plug **90** therein.

Allowable Subject Matter

4. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 8-9 would be allowable because the prior art does not disclose or suggest having a rechargeable battery wherein the sealing plug is formed from an electrically conductive plastic.

5. Claims 4-7 and 12 are allowed. Claims 4-7 and 12 are allowable because the closest prior arts of record, Thomas et al, do not disclose or suggest a rechargeable

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battery comprising at least one of a state of charge indicator and an acid level indicator attached to the upper part of the sealing plug and passing through the lower part of the sealing plug cavity.

Response to Arguments

6. Applicant's arguments filed on December 23rd, 2005 have been fully considered but they are not persuasive.

Applicant's principle arguments are

(a) Thomas et al. does not identically disclose a "rechargeable battery" comprising, among other elements, a "splash basket" that "surrounds a cavity and has slots distributed over its circumference, the slots continuing as far as a free end of the splash basket and having a width that broadens with increasing distance from the free end of the splash bucket."

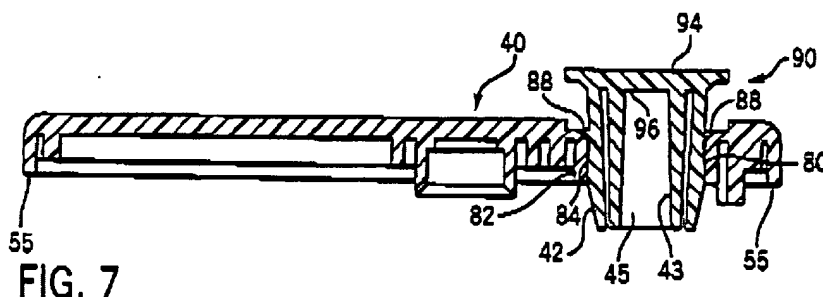
In response to Applicant's arguments, please consider the following comments.

(a) Thomas et al teach that the present invention provides a battery of the type having electrolyte therein, comprising a case defining at least one electrolyte containing cell, and a primary cover bonded to the case. The primary cover has a barrel extending into the electrolyte cell. A secondary cover bonded to the primary cover top, and an

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aperture concentric with the primary cover barrel. A baffling plug is disposed in the secondary cover aperture and extends into the barrel (Col 2 lines 60-67); (Col 3 lines 1-4). Thomas et al further teach that in FIGS. 3 and 6, baffling plug **90** is pressed into the fill hole **80** formed in the secondary cover **40** to inhibit the escape of the electrolyte from the cells. Each baffling plug **90** has a lid **94** with a bottom **96**, a pair of tubular splash guards **42**, **43** extending from the lid bottom **96**, and a retaining member **88** for retaining the plug **90** in the fill hole **80**. The splash guards include a coaxially arranged outer tubular splash guard **42** and inner tubular splash guard **43**. When the plug **90** is pressed into the fill hole **80** the splash guards **42**, **43** extend into the barrels **22** of the primary cover **20**. In the preferred embodiment, the retaining member **88** is formed as an integral part of the outer splash guard **42** (Col 7 lines 6-18). The outer tubular splash guards **42a-f** have slots **44a-f** formed through their surfaces. Explosive gases evolved in the cells escape through these slots **44a-f**. The preferred embodiment has four slots for each outer tubular splash guard **42**. The slots are formed symmetrically and extend from the lower tip toward the retaining member **88** (Col 7 lines 44-50). Each inner tubular splash guard **43** is aligned coaxially with a respective outer tubular splash guard **42** and defines an inner chamber **45** at its center (Col 7 lines 51-57).

Furthermore, Fig. 7 of Thomas et al discloses *a plug wherein the slots continue as far as a free end of the splash basket and having a width that broadens with increasing distance from the free end of the splash bucket.*



Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicants disclosure. Richter et al. (U.S. Patent No. 6,733,921 B2) teach a rechargeable electric battery including a cover for the box which has closure plugs and/or acid state indicators fitted in a gas-tight manner to openings therein, wherein at least a portion of an inner surface of the battery is electrically conductive.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

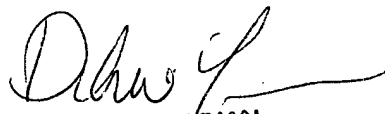
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Ben Lewis

Patent Examiner

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DAN WEI YUAN
PRIMARY EXAMINER